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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE, Plaintiff and Respondent, v. BENNY WARDELL WILLIAMS, Defendant and Appellant.	C035236 (Super. Ct. No. 99F07078)

A jury convicted defendant Benny Wardell Williams of vehicle theft (Veh. Code, § 10851), and the trial court found that he had four prior serious felony convictions within the meaning of the ”three strikes law.” (Pen. Code, §§ 667, subd. (b)-(i), 1170.12.) Sentenced to a prison term of 25 years to life, defendant appeals, contending the court erred (1) by failing to instruct sua sponte on the defense of mistake of fact or claim of right, and (2) by not excluding certain evidence. Finding no prejudicial error, we shall affirm the judgment.

BACKGROUND

Prosecution case

On June 29, 1999, defendant was living with 65-year-old Phyllis Teal in an apartment in Sacramento. Teal and defendant had known each other since December 1996. They had a romantic relationship for six months. However, by June 1999, they were just friends and did not sleep in the same room.

Teal, who is a diabetic with failing vision, paid all of the bills and rent. In exchange, defendant helped her out by driving her places and running errands on a daily basis. Defendant's own car was inoperable, so Teal let him use her green Ford Escort to assist her. On occasion, she also permitted him to use it for his own medical appointments or other "urgent" matters. Because defendant frequently drove her car, Teal notified her insurance carrier that he was an operator of the vehicle. According to Teal, she never loaned defendant the car or gave him permission to use it for more than one day, and he always returned the keys to her when he finished using the car.

On the evening of June 29, 1999, Teal took out the trash but could not get back into the apartment because the door had been locked and the security latch set after she left. When defendant eventually let her in, Teal discovered her purse was open and her car key and security device key were missing. Teal confronted defendant and demanded that he return her keys, but he denied knowing where they were. After searching the apartment for her keys, she went to look in her car and found that, contrary to her

usual practice, all four doors were unlocked. When she returned to the apartment, defendant said he was "going to leave."

Teal believed that defendant had her house and car keys. Since it appeared he was moving out, she told him she was going to call the police and then did so. When an officer arrived, Teal told him what had transpired and stated she wanted her keys back. Defendant denied having the keys. According to Teal, the officer informed defendant that, if he had Teal's keys and took her car, he would be arrested.

After the officer left, defendant gave Teal her post office box key, packed his clothing, and left the apartment without saying where he was going. Teal was shocked to hear her car engine start. When she went outside, she saw the rear lights of her car as it drove off. Teal, who had not given defendant permission to take or drive her car on that date, telephoned 911 and reported the theft of her car.

On July 4, 1999, Teal moved to a different residence in Sacramento, but she maintained the same telephone number. Defendant did not contact Teal at any time between June 29 and August 28, 1999, when the car was recovered.

On August 28, Sacramento police officer Joseph Morgan was dispatched to a petty theft in progress at a Kmart store. When Morgan arrived, a store security officer pointed out a green Ford Escort into which the thief had fled. Morgan detained and questioned defendant, who was driving the car, and Angela Winrow, who was a passenger. Morgan discovered the car they were in was the one that Teal had reported stolen in June. Defendant stated

that he was married to Teal and asked Morgan's partner to check the insurance papers in the car.

Winrow testified that defendant, whom she had not met before, picked her up on August 28 outside of a store. While defendant was driving the car, an unidentified man ran out of a Kmart department store and got into the car; the trio then drove off together. When defendant told the man that he needed to get out of the car because the police may "run" or "scan" the license plate, the man left. Thereafter, the police detained the car, and Winrow reported the conversation between defendant and the third party.

Teal testified that, despite defendant's claim to the contrary, they were never married and she did not have a marriage ceremony with him. Teal admitted visiting defendant in jail after the incident and telling him that she was sorry "about the whole thing"; but she denied telling him that she was sorry for reporting the car stolen or that she would contact the district attorney's office to straighten out the matter.

Mary Agcaoili, an Allstate Insurance agent, testified that Teal added defendant as an additional operator of her vehicle but that, according to the insurance company's records, defendant's marital status was single and the agent believed Teal was a widow. Teal also belonged to the Allstate Motor Club, which provides roadside assistance. Although the club cards issued to Teal listed defendant under "spouse name," there was an asterisk explaining that the term also included any "other designated adult living in [the] member's household." Agcaoili stated the club card listed Teal as married because the computer program Agcaoili used

automatically printed “married” when a name was typed on the form after the “spouse name” designation.

Defense Case

Defendant, who admitted he was a convicted felon, testified as follows:

In June or July 1997, he and Teal went to San Antonio, Texas to get married. Teal’s brother-in-law, an ordained minister, performed the marriage ceremony. Teal hid the fact of their marriage because she did not want to report defendant’s income and jeopardize her Social Security.

When defendant and Teal moved to an apartment in August 1998, Teal said she would get the apartment in her own name because the owner would not rent to a convicted felon. Their relationship began to have problems in the latter part of 1998, when Teal suspected defendant was involved with another woman named Gwen. However, they continued to live together until June 29, 1999.

Teal allowed defendant to freely use the car. He did not have to get permission from her. In fact, she had added him on her insurance policy.

On June 29, Teal could not find her house keys and accused defendant of taking them. She called the police and, when the officer arrived, Teal told him that defendant had taken her keys. While the officer was there, Teal found her house keys. She then asked defendant for her car keys, but he told her he had given them to her when they came home earlier. The officer did not tell defendant that he would go to jail if he had Teal’s car keys and took the car.

After the police left, Teal found her car keys, apologized to defendant, and gave him the keys. When defendant told Teal he was going to put his clothes in a storage locker, she began ranting and raving about him going to see Gwen. Teal said that, if he took his clothes out, she would call the police and report him for stealing her car. He told her that she was acting crazy and that he would be back. Defendant then drove away. He understood that he had the right to drive the car because he had been doing so since 1998, he was on the insurance policy, and he was married to Teal.

During the first week of July, defendant returned to the apartment and found the locks had been changed. The apartment manager would not give him Teal's new address or telephone number. Defendant went to Teal's post office box for three days to see if he could catch her picking up her mail, but he was unable to find her.

Defendant and Teal had discussed going to Shreveport, so he decided to go there. He got as far as Los Angeles when his money began to run out, and he returned to Sacramento in August. He was on his way back to the apartment on August 28 when a girl flagged him down for a ride. As defendant drove across the parking lot of a Kmart store, a kid ran up to his car and got in. When defendant saw that the kid had an armful of clothes, defendant told him he would take him back to the store, whereupon the kid jumped out of the car. He did not tell the kid to get out of the car because the police were going to check his license plates.

Defendant stopped his car to let authorities know he was not involved with the theft from Kmart. When the police officer told

him that the car had been reported stolen, defendant replied it was his wife's car and referred the officer to the insurance policy in the glove compartment.

Following defendant's arrest, Teal visited him in jail and said she was sorry for telling the police that he stole her car. Defendant asked her to go to the district attorney's office and explain she made a mistake, but she said she could not do that.

In closing summation, defendant argued that he was married to Teal and thus could not steal something that was his community property. He also argued that Teal gave him the keys and knew he was going to drive the car; consequently, he had her consent to take the car. Moreover, he never needed her permission to drive the car before, so he did not need it the night he left. Defendant also claimed to be "legally tied into the car" because he was on Teal's insurance. According to defendant, Teal lied about the car being stolen because she thought he was going to see Gwen when he left and she was angry.

DISCUSSION

I

Defendant contends the trial court erred in failing to instruct the jury sua sponte with CALJIC No. 4.35 or a similar instruction concerning the defense of mistake of fact or claim of right.

CALJIC No. 4.35 provides in pertinent part: "An act committed or an omission made in ignorance or by reason of a mistake of fact which disproves any criminal intent is not a crime. [¶] Thus a person is not guilty of a crime if [he] [she] commits an act or

omits to act under an actual [and reasonable] belief in the existence of certain facts and circumstances which, if true, would make the act or omission lawful." (See also Pen. Code, § 26, par. Three.)

If the charged offense is a specific intent crime like theft, the person's belief in the mistaken facts, such as a right to the property taken or the owner's consent, need not be reasonable. (*People v. Romo* (1990) 220 Cal.App.3d 514, 518; *People v. Navarro* (1979) 99 Cal.App.3d Supp. 1.) As long as a person acts in the genuine belief that certain facts exist, which if true would make the act lawful, then the person has not acted unlawfully. (*People v. Reed* (1996) 53 Cal.App.4th 389, 396; *People v. Lucero* (1988) 203 Cal.App.3d 1011, 1016.)

To prove a violation of Vehicle Code section 10851, the prosecutor had to show beyond a reasonable doubt that defendant took or drove Teal's car without her consent and with the specific intent to deprive her either permanently or temporarily of her title to, or possession of, the vehicle. (Veh. Code, § 10851; CALJIC No. 14.36.) The requisite felonious intent existed only if defendant intended to take Teal's property without believing in good faith that he had a right or claim to it. (*People v. Tufunga* (1999) 21 Cal.4th 935, 943.) Proof of the existence of a state of mind incompatible with an intent to steal precludes a finding of theft. (*Ibid*.)

Defendant argues he had a good faith belief that he had the right to drive Teal's car because (1) he believed he was married to her, which belief was supported by the insurance documents,

and (2) he had driven the car for years without needing to ask permission, and Teal had given him the car keys on the day in question, which indicated she gave him consent to take the car that day. Thus, according to defendant, he lacked the requisite specific intent to permanently or temporarily deprive Teal of her possession of the car, and the court should have given instructions regarding this defense.

A trial court's duty to instruct, sua sponte, on particular defenses arises "'only if it appears that the defendant is relying on such a defense, or if there is substantial evidence supportive of such a defense and the defense is not inconsistent with the defendant's theory of the case.' [Citation.]" (*People v. Barton* (1995) 12 Cal.4th 186, 195; *People v. Montoya* (1994) 7 Cal.4th 1027, 1047.) The defense of a good faith belief in consent is not inconsistent with the defense of actual consent. (Cf. *People v. Bruce* (1989) 208 Cal.App.3d 1099, 1104.)

Substantial evidence of a defense is defined as evidence which is "sufficient to 'deserve consideration by the jury, i.e., "evidence from which a jury composed of reasonable men could have concluded"' that the particular facts underlying the instruction did exist." (*People v. Wickersham* (1982) 32 Cal.3d 307, 324 (hereafter *Wickersham*), overruled on other grounds in *People v. Barton, supra,* 12 Cal.4th at pp. 200-201.) If the evidence is minimal or insubstantial, the trial court need not instruct on its effect. (*People v. Romo, supra,* 220 Cal.App.3d at p. 519.) However, in assessing the strength of the evidence, the court is not permitted to determine the credibility of witnesses

(*Wickersham, supra*, 32 Cal.3d at p. 324), and doubts as to the sufficiency of the evidence to warrant instructions should be resolved in favor of the defendant. (*People v. Tufunga, supra,* 21 Cal.4th at p. 944.)

For reasons that follow, we conclude the trial court did not err in failing to give CALJIC No. 4.35 or a similar instruction.

The defense that defendant believed he had a right to take the car was based on his alleged good faith belief he was married to Teal. But at trial, defendant did not claim that he mistakenly believed he was married; he asserted only that he actually was married, as evidenced by the car insurance document naming him as Teal's spouse. According to defendant, Teal's brother-in-law, who was an ordained minister, performed the marriage ceremony. By convicting defendant of vehicle theft, the jury necessarily rejected defendant's claim that he was married to Teal and, thus, he did not have the legal right to take the car.

There was no substantial evidence at trial to support his appellate claim of a mistaken good faith belief that he was married to Teal with a concomitant right to use the car. Either a marriage ceremony occurred as he testified, or it did not as Teal testified; there was no evidence that a sham ceremony was performed, which would have misled defendant into believing he was married.

The insurance papers, which listed defendant under the designation "spouse's name," are not enough in and of themselves to support a mistaken but good faith belief that defendant was married. The asterisk by the designation showing it also included any "other designated adult living in [the] member's household"

undermines its persuasiveness as evidence that defendant was Teal's husband. More importantly, the insurance documents alone, absent the actual performance of a wedding ceremony or the existence of legal documentation evidencing a marriage, are insufficient to support a good faith belief by defendant that he was married to Teal. Although a defendant's belief in the mistaken facts need not be reasonable, when it is so unreasonable as to defy all logic and common sense, it cannot meet the requisite standard of a belief held in good faith unless perhaps the defendant was mentally deficient. No such evidence was proffered.

Defendant also claims he mistakenly believed Teal consented to him taking the car, which belief was supported by his testimony that he had never needed Teal's permission to drive her car and that she gave him the car keys on the day he took the car. While this evidence might be substantial enough to warrant a mistake of fact instruction if defendant merely had taken the car temporarily to run an errand, it is insufficient to preclude a finding of vehicle theft under the circumstances of the present case.

Teal testified that she only allowed defendant to use her car occasionally for his own errands, that he always returned the keys to her when he was finished, and that she never permitted him to use the car for longer than one day. No evidence was presented by defendant to refute Teal's testimony that she never permitted him to take the car for an extended period of time.[1] Thus, although

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[1] According to defendant, Teal admitted that on one occasion defendant kept her car for *two* days. However, when Teal's

defendant's evidence might have supported a mistaken belief that he could borrow the car for a day, it was not substantial enough to establish a good faith belief that he could take the car for two months, or even for the week that he had possession of the car before he claimed he attempted to return it to Teal and discovered she no longer lived in the same apartment. Rather, the evidence disclosed that defendant, who never telephoned Teal to inform her of his or her car's whereabouts, purposely kept Teal's car for two months, and that he would have kept it longer if he had not been stopped by the police.

Accordingly, the trial court did not err in failing to instruct sua sponte with CALJIC No. 4.35.

II

Defendant contends the trial court erred in allowing Teal to testify that the officer who responded to her first 911 call warned defendant that he would be subject to arrest for vehicle theft if he took Teal's car. Defendant also asserts the court erred in admitting the transcript of Teal's second 911 call, wherein she reported her car stolen and stated "the officer who was just here" told defendant "you wouldn't be a fool to steal a car and -- and get yourself back in jail." Defendant argues the statements are inadmissible hearsay.

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testimony is read in context, she does not state he kept her car for two days. Rather, she allowed defendant to take her car to work on two different days; but, after she discovered he left it unlocked, she would not allow him to use her car to drive to work again.

Prior to trial, the court ruled that Teal's proposed testimony could be admitted not for the truth of the matter asserted, but as evidence indicating defendant was made aware that he no longer had consent to take or drive Teal's car. As for the 911 transcript, the court admitted the evidence as proof that Teal called the police and reported her car stolen, and as corroboration of her claim that she did not give defendant consent to take her car.

An extrajudicial statement offered for some purpose other than to prove the fact stated therein is not hearsay. (*People v. Bolden* (1996) 44 Cal.App.4th 707, 714.) Here, the trial court concluded that the evidence was admissible for the nonhearsay purpose of demonstrating defendant was made aware prior to taking the car that whatever consent he may have believed he had to take the car had been revoked. This conclusion is correct.

"'"Whenever an utterance is offered to evidence the *state of mind* which ensued *in another person* in consequence of the utterance, it is obvious that no assertive or testimonial use is sought to be made of it, and the utterance is therefore admissible, so far as the Hearsay rule is concerned." (Emphasis the author's.)' . . . ." (*People v. Duran* (1976) 16 Cal.3d 282, 295; orig. italics, citations omitted.)

Citing *People v. Armendariz* (1984) 37 Cal.3d 573 (hereafter *Armendariz*), defendant argues that the officer's statement had nonhearsay value and relevance only if the officer actually made the alleged statement to defendant. Because defendant denied the officer told him he would be arrested if he took Teal's car, he argues the statement was irrelevant.

In *Armendariz*, the prosecution sought to introduce a murder victim's prior statement to his son that he was frightened of the defendant because the defendant had demanded money from the victim and threatened to assault him if he did not comply. (*Armendariz, supra,* 37 Cal.3d at p. 585.) The Supreme Court held that the victim's statement was not relevant because neither the son's state of mind upon hearing the victim's statement nor the victim's conduct in conformity with his fear of defendant was in dispute. (*Id*. at pp. 585-587.) The only possible relevance of the statement was to show the defendant's knowledge that he was not welcome at the victim's house. However, the statement was relevant for this purpose only if it was true because the defendant could not know he was not welcome unless he actually had threatened the victim as the victim alleged. (*Id*. at p. 587.)

Defendant's reliance on *Armendariz* is misplaced. Here, the statement in question is not one that defendant allegedly made. Rather, it is one he allegedly heard, and his state of mind upon hearing the officer's statement was in dispute, unlike the state of mind of those hearing the statement at issue in *Armendariz*. Accordingly, the officer's statement was relevant and admissible. Whether the officer actually made the statement was a question of fact for the jury to resolve.

In a footnote in his opening brief, defendant contends that, although the trial court purported to admit the evidence for a limited nonhearsay purpose, the court failed to do so since it never gave the jury an appropriate limiting instruction. He also

asserts that the prosecutor did not limit his use of the evidence and argued the truth of the statement in his closing argument.

If defendant is claiming the court erred in failing to give the jury a limiting instruction and the prosecutor committed misconduct during closing argument, these claims are unavailing.

An appellant must present each point separately in the opening brief under an appropriate heading, showing the nature of the question to be presented and the point to be made. (Cal. Rules of Court, rule 15(a).) Issues not so presented may be deemed waived. (*Opdyk v. California Horse Racing Bd.* (1995) 34 Cal.App.4th 1826, 1830-1831, fn. 4.)

Moreover, as to the instructional issue, defendant provides no citation to the record demonstrating that defense counsel asked the court give an appropriate limiting instruction, and the court did not have a duty to give such an instruction sua sponte. (*People v. Carpenter* (1999) 21 Cal.4th 1016, 1050, fn. 6; *People v. Coleman* (1989) 48 Cal.3d 112, 151.)

As to the claim of misconduct, defendant provides no citation to the record demonstrating that defense counsel objected to the prosecutor's allegedly inappropriate argument and requested an admonition to the jury. Consequently, any claim of prosecutorial misconduct is waived. (*People* v. *Rowland* (1992) 4 Cal.4th 238, 274.)

In any event, in light of the strong evidence of defendant's guilt, it is not reasonably likely that he would have obtained a more favorable result in the absence of the claimed error.

III

Lastly, defendant contends that his three strikes sentence of 25 years to life constitutes cruel and/or unusual punishment under article I, section 17 of the California Constitution and the Eight Amendment of the United States Constitution. We disagree.

Our state Constitution prohibits "cruel or unusual punishment." (Cal. Const., art. I, § 17.) We construe this provision separately from its counterpart in the United States Constitution. (*Raven v. Deukmejian* (1990) 52 Cal.3d 336, 355.)

A punishment may violate California's Constitution if "it is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity." (*In re Lynch* (1972) 8 Cal.3d 410, 424, fn. omitted (hereafter *Lynch*).) *Lynch* identified three "techniques" used to administer this rule; an examination of the nature of the offense and the offender (*id*. at p. 425); a comparison of the punishment with the penalty for more serious crimes in the same jurisdiction (*id*. p. 426); and a comparison of the punishment to the penalty for the same offense in different jurisdictions (*id*. at p. 427).

Regarding the first "technique," defendant claims his current offense of vehicle theft is nonviolent and could have been treated as a misdemeanor in the discretion of the prosecutor or trial court. And, because he was 54 years old at sentencing, he points out that the sentence of 25 years to life is likely to be the equivalent of a sentence of life without parole. Thus, he argues his punishment is excessive.

An examination of the offense and the offender leads to the conclusion that defendant's sentence does not shock the conscience or offend fundamental notions of human dignity. He began his life of crime over 35 years before the present offense. He has committed many felonies (including burglary, robbery and murder), several misdemeanors, and repeated violations of parole. His present crime, committed after repeated placements on probation and parole and his service of numerous jail sentences and prison terms, demonstrates that defendant refuses to live by society's rules and poses a continuing danger to the public. Simply stated, he engages in precisely the sort of recidivism that the three strikes law was designed to combat.

Regarding the punishment for more serious crimes in California, defendant argues that he would receive a lesser sentence for robbery and second degree murder than he received for taking a vehicle. But he has not been punished "merely on the basis of his current offense but on the basis of his recidivist behavior." (*People v. Kinsey* (1995) 40 Cal.App.4th 1621, 1630; accord *People v. Cartwright* (1995) 39 Cal.App.4th 1123, 1136-1137.) He has not been punished more severely than one who commits robbery or second degree murder following three serious felony convictions.

Defendant cites *Andrade v. Attorney General of State of California* (9th Cir. 2001) 270 F.3d 743 (hereafter *Andrade*) and *Brown v. Mayle* (9th Cir. 2002) __ F.3d __ [2002 WL 187415] (hereafter *Brown*) for the proposition that his punishment is disproportionate to punishment for other offenses in California. However, those cases are distinguishable because they involved

sentences of 25 years to life for the crimes of petty theft committed by persons who had prior convictions for theft-related offenses. Ordinarily, petty theft is a misdemeanor. Thus, the punishment for petty theft, which the Ninth Circuit described as a "relatively minor offense," was first enhanced to a felony because of the appellant's prior theft-related convictions and then enhanced again due to his prior serious felony convictions. (*Andrade*, *supra*, 270 F.3d at pp. 749, 760.) *Brown* agreed with *Andrade's* conclusion that application of the three strikes law to a petty theft committed by a person with a prior theft conviction impermissibly permits the offender's recidivism to be "double counted," to transform the misdemeanor into a felony and then to count it as the basis for a life sentence. (*Brown, supra,* (9th Cir. 2002) __ F.3d __ [2002 WL 187415 at pp. 1, 6].) *Brown* also noted that a person who committed a petty theft and whose criminal record included a theft-related conviction and serious or violent crimes would be punished more severely than a petty thief whose criminal record included violent crimes but no theft-related convictions. (*Id*. at pp. ___ [2002 WL 187415 at pp. 8-9].) Such is not the case here.

Defendant compares his punishment with that of other states and concedes many states have similar recidivist laws that are as severe or more severe than California's version. Nevertheless, he believes his sentence is disproportionate when compared with other jurisdictions because some of them have provisions that mitigate the harshness of their facially severe laws.

The People's recitation of comparable recidivist statutes persuades us California's three strikes law is not unconstitutional.

Even if some states do not apply their recidivist statutes under similar circumstances, this does not compel the conclusion that defendant's sentence is disproportionate to his criminal status. California is not required to conform its Penal Code to the "majority rule" or the least common denominator of penalties nationwide. (*In re DeBeque* (1989) 212 Cal.App.3d 241, 255.) As the United States Supreme Court has noted, the different needs and concerns of individual states may cause them to treat certain crimes or repeat offenders more harshly than other states. (*Harmelin v. Michigan* (1991) 501 U.S. 957, 990 [115 L.Ed.2d 836, 861-862].)

People v. Martinez (1999) 71 Cal.App.4th 1502 (hereafter *Martinez*) examined recidivist statutes around the country. For the reasons stated in *Martinez,* we reject defendant's claim that his punishment is disproportionate to that imposed for similar offenses in other jurisdictions.

In sum because of defendant's long pattern of recidivism, his sentence does not shock the conscience or offend fundamental notions of human dignity. (*People v. Dillon* (1983) 34 Cal.3d 441, 487, fn. 38; *Lynch, supra*, 8 Cal.3d at p. 424.)

Defendant's claim of cruel and unusual punishment fares no better under the federal standard. In *Harmelin v. Michigan*, *supra,* 501 U.S. 957 [115 L.Ed.2d. 836], the United States Supreme Court found that the appellant's sentence of life without the possibility of parole for possessing 672 grams of cocaine was not cruel and unusual. (*Id*. at pp. 965, 994-996 [115 L.Ed.2d at pp. 846, 864-865].) In *Rummel v. Estelle* (1980) 445 U.S. 263 [63 L.Ed.2d 382],

the Supreme Court upheld a life sentence imposed under a Texas recidivist statute for a defendant convicted of obtaining $120.75 by false pretenses after incurring previous convictions for fraudulent use of a credit card and passing a forged check. (*Id*. at p. 266 [63 L.Ed.2d at p. 386].) The Supreme Court described the statute as "nothing more than a societal decision that when such a person commits yet another felony, he should be subjected to the admittedly serious penalty of incarceration for life, subject only to the State's judgment as to whether to grant him parole." (*Id.* at p. 278 [63 L.Ed.2d at p. 394].)

Such is the case here. Defendant's sentence is neither cruel nor unusual.

DISPOSITION

The judgment is affirmed.

SCOTLAND, P.J.

We concur:

SIMS, J.

CALLAHAN, J.